

Notice of Allowability

Application No.

09/765,060

Examiner

Karen A Canella

Applicant(s)

YU, BAOFA

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☐ The allowed claim(s) is/are 36, 37, 39, 40, 42-48, 50, 53, 57, 69, 71-79.
3. ☒ The drawings filed on Jan 8, 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peng Cheng on February 10, 2004.

The application has been amended as follows:

Claims 1-35 and 78 have been canceled.

Claim 44 has been replaced with the following:

Claim 44. The method of claim 43, wherein the immune response potentiator is selected from the group consisting of Bacille Calmette-Guerin (BCG); Corynebacterium Parvum; Brucella abortus extract; glucan; levamisole; tilorone; an enzyme selected from the group consisting of Vibrio cholera neuramidase (VCN), Papain, β -Gal and ConA; a non-virulent Newcastle virus; and a polysaccharide selected from the group consisting of sizofuran (SPG), schizophyllan, mannan, lentinan, Su-polysaccharide (Su-Ps) and mannozym.

Claim 79 has been replaced with the following:

Claim 79. The method of claim 36, further comprising in situ administering a cytokine or a cytokine-containing depot.

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2. It is noted that the amendment filed January 28, 2004 incorrectly lists claims 45 and 46 as "withdrawn". These claims were examined as species in the Office action mailed October 6, 2003 and are currently pending.


3. The examiner acknowledges the priority claim to provisional application 60/177,024 under benefit of 35 U.S.C. 119(e).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Canella whose telephone number is (571) 272-0828. The examiner can normally be reached on Monday through Friday from 9 am to 6:30 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (571) 272-0871. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-308-4357.

Karen A. Canella, Ph.D.

Primary Examiner, Group 1642

February 10, 2004


KAREN A. CANELLA PH.D.
PRIMARY EXAMINER